

**Introduced by Committee on Environmental Quality (Senators Sher (Chair), Chesbro, Figueroa, Kuehl, McPherson, and Romero)**

March 1, 2004

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An act to amend Section 21167 of the Public Resources Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 1889, as introduced, Committee on Environmental Quality. Environmental protection: actions against a public agency.

(1) The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law requires every state agency, board, or commission, when approving or determining to carry out a project, to file a notice of that approval or determination with the Office of Planning and Research, and requires every local agency to file a notice of an approval or determination with the county clerk of each county in which the project will be located. If a person has made a written request to that public or local agency for a copy of the notice of approval or determination filed with the Office of Planning and Research or with the county clerk, existing law requires the agency to deposit in the United States mail, first class postage prepaid, within 5 days from the date of the agency's approval or determination a written copy of the notice addressed to the person.

This bill would require the public or local agency to make the deposit in the United States mail within 3 days from the date of the approval or

determination. By imposing an increased level of service on local agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21167 of the Public Resources Code is  
2 amended to read:

3 21167. ~~Any~~ An action or proceeding to attack, review, set  
4 aside, void, or annul the following acts or decisions of a public  
5 agency on the grounds of noncompliance with this division shall  
6 be commenced as follows:

7 (a) An action or proceeding alleging that a public agency is  
8 carrying out or has approved a project ~~which~~ that may have a  
9 significant effect on the environment without having determined  
10 whether the project may have a significant effect on the  
11 environment shall be commenced within 180 days from the date  
12 of the public agency's decision to carry out or approve the project,  
13 or, if a project is undertaken without a formal decision by the  
14 public agency, within 180 days from the date of commencement  
15 of the project.

16 (b) ~~Any~~ An action or proceeding alleging that a public agency  
17 has improperly determined whether a project may have a  
18 significant effect on the environment shall be commenced within  
19 30 days from the date of the filing of the notice required by  
20 subdivision (a) of Section 21108 or subdivision (a) of Section  
21 21152.



1 (c) ~~Any~~ *An* action or proceeding alleging that an environmental  
2 impact report does not comply with this division shall be  
3 commenced within 30 days from the date of the filing of the notice  
4 required by subdivision (a) of Section 21108 or subdivision (a) of  
5 Section 21152 by the lead agency.

6 (d) ~~Any~~ *An* action or proceeding alleging that a public agency  
7 has improperly determined that a project is not subject to this  
8 division pursuant to subdivision (b) of Section 21080 or pursuant  
9 ~~to Section 21085 or 21172~~ shall be commenced within 35 days  
10 from the date of the filing by the public agency, or person specified  
11 in subdivision (b) or (c) of Section 21065, of the notice authorized  
12 by subdivision (b) of Section 21108 or subdivision (b) of Section  
13 21152. If the notice has not been filed, the action or proceeding  
14 shall be commenced within 180 days from the date of the public  
15 agency's decision to carry out or approve the project, or, if a project  
16 is undertaken without a formal decision by the public agency,  
17 within 180 days from the date of commencement of the project.

18 (e) ~~Any~~ *An* action or proceeding alleging that ~~any other~~ *another*  
19 act or omission of a public agency does not comply with this  
20 division shall be commenced within 30 days from the date of the  
21 filing of the notice required by subdivision (a) of Section 21108 or  
22 subdivision (a) of Section 21152.

23 (f) If a person has made a written request to the public agency  
24 for a copy of the notice specified in Section 21108 or 21152 prior  
25 to the date on which the agency approves or determines to carry  
26 out the project, then not later than ~~five~~ *three* days from the date of  
27 the agency's action, the public agency shall deposit a written copy  
28 of the notice addressed to that person in the United States mail, first  
29 class postage prepaid. The date upon which this notice is mailed  
30 shall not affect the time periods specified in subdivisions (b), (c),  
31 (d), and (e).

32 SEC. 2. Notwithstanding Section 17610 of the Government  
33 Code, if the Commission on State Mandates determines that this  
34 act contains costs mandated by the state, reimbursement to local  
35 agencies and school districts for those costs shall be made pursuant  
36 to Part 7 (commencing with Section 17500) of Division 4 of Title  
37 2 of the Government Code. If the statewide cost of the claim for  
38 reimbursement does not exceed one million dollars (\$1,000,000),

- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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